

**ADDENDUM TO JOINT COMMISSION ON ACCREDITATION
OF HEALTHCARE ORGANIZATIONS
APPLICATION FOR SURVEY
(Business Associate Agreement)**

THIS ADDENDUM supplements and is made a part of the Joint Commission on Accreditation of Healthcare Organizations (“JCAHO”) Application for Survey (hereinafter, the “Underlying Agreement”) submitted to JCAHO by _____ (“the Surveyed Organization”). The Underlying Agreement, when accepted by JCAHO, establishes the terms of the relationship between JCAHO and the Surveyed Organization.

Whereas, JCAHO and the Surveyed Organization are parties to the Underlying Agreement pursuant to which JCAHO provides certain accreditation survey and related services to the Surveyed Organization and, in connection with the provision of those services, the Surveyed Organization discloses to JCAHO certain Protected Health Information (“PHI,”)(as defined in 45 C.F. R. §164.501) that is subject to protection under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”);

Whereas, the Surveyed Organization is a “Covered Entity” as that term is defined in the HIPAA implementing regulations,– 45 C.F.R. Part 160 and Part 164, Subparts A and E, the Standards for Privacy of Individually Identifiable Health Information (“Privacy Rule”);

Whereas, JCAHO, as a recipient of PHI from the Surveyed Organization, is a “Business Associate” as that term is defined in the Privacy Rule;

Whereas, pursuant to the Privacy Rule, all Business Associates of Covered Entities must agree in writing to certain mandatory provisions regarding the use and disclosure of PHI; and

Whereas, the purpose of this Addendum is to comply with the requirements of the Privacy Rule, including, but not limited to, the Business Associate contract requirements at 45 C.F.R. §164.504(e).

NOW, THEREFORE in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. Definitions. Unless otherwise provided in this Addendum, capitalized terms have the same meanings as set forth in the Privacy Rule.
2. Scope of Use and Disclosure by JCAHO of Protected Health Information
 - A. JCAHO shall be permitted to use and disclose PHI that is disclosed to it by the Surveyed Organization as necessary to perform its obligations under the Underlying Agreement.
 - B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or authorized by this Addendum or required by law, JCAHO may:
 - (a) use the PHI in its possession for its proper management and administration and to fulfill any legal responsibilities of JCAHO;
 - (b) disclose the PHI in its possession to a third party for the purpose of JCAHO's proper management and administration or to fulfill any legal responsibilities of JCAHO; provided, however, that the disclosures are required by law or JCAHO has received from the third party written assurances that (i) the information will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the third party; and (ii) the third party will notify the JCAHO of any instances of which it becomes aware in which the confidentiality of the information has been breached;
 - (c) aggregate the PHI with that of other Surveyed Organizations for the purpose of providing the Surveyed Organization with data analyses relating to the Health Care Operations of the Surveyed Organization. JCAHO may not disclose the PHI of one Surveyed Organizations to another Surveyed Organization

without the written authorization of the Surveyed Organizations involved; and

- (d) de-identify any and all PHI created or received by JCAHO under this Addendum; provided, that the de-identification conforms to the requirements of the Privacy Rule.

3. Obligations of JCAHO. In connection with its use and disclosure of PHI, JCAHO agrees that it will:
 - A. Use or further disclose PHI only as permitted or required by this Addendum or as required by law.
 - B. Use reasonable and appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Addendum;
 - C. To the extent practicable, mitigate any harmful effect that is known to JCAHO of a use or disclosure of PHI by JCAHO in violation of this Addendum.
 - D. Report to the Surveyed Organization any use or disclosure of PHI not provided for by this Addendum of which JCAHO becomes aware.
 - E. Require contractors or agents to whom JCAHO provides PHI to agree to the same restrictions and conditions that apply to JCAHO pursuant to this Addendum.
 - F. Make available to the Secretary of Health and Human Services JCAHO's internal practices, books and records relating to the use and disclosure of PHI for purposes of determining the Surveyed Organization's compliance with the Privacy Rule, subject to any applicable legal privileges.
 - G. Within (15) days of receiving a request from the Surveyed Organization, make available the information necessary for the Surveyed Organization to make an accounting of disclosures of PHI about an individual.

- H. Within ten (10) days of receiving a written request from the Surveyed Organization, make available PHI necessary for the Surveyed Organization to respond to individuals' requests for access to PHI about them in the event that the PHI in JCAHO's possession constitutes a Designated Record Set.
 - I. Within fifteen (15) days of receiving a written request from the Surveyed Organization incorporate any amendments or corrections to the PHI in accordance with the Privacy Rule in the event that the PHI in JCAHO's possession constitutes a Designated Record Set.
4. Obligations of the Surveyed Organization. The Surveyed Organization agrees that it:
- A. Has included, and will-include, in the Surveyed Organization's Notice of Privacy Practices required by the Privacy Rule that the Surveyed Organization may disclose PHI for health care operations purposes.
 - B. Has obtained, and will obtain, from Individuals consents, authorizations and other permissions necessary or required by laws applicable to the Surveyed Organization for JCAHO and the Surveyed Organization to fulfill their obligations under the Underlying Agreement and this Addendum.
 - C. Will promptly notify JCAHO in writing of any restrictions on the use and disclosure of PHI about Individuals that the Surveyed Organization has agreed to that may affect JCAHO's ability to perform its obligations under the Underlying Agreement or this Addendum.
 - D. Will promptly notify JCAHO in writing of any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes or revocation may affect JCAHO's ability to perform its obligations under the Underlying Agreement or this Addendum.

5. Termination.

A. Termination for Breach. The Surveyed Organization may terminate this Addendum if the Surveyed Organization determines that JCAHO has breached a material term of this Addendum. Alternatively, the Surveyed Organization may choose to provide JCAHO with notice of the existence of an alleged material breach and afford JCAHO an opportunity to cure the alleged material breach. In the event JCAHO fails to cure the breach to the satisfaction of the Surveyed Organization, the Surveyed Organization may immediately thereafter terminate this Addendum.

B. Automatic Termination. This Addendum will automatically terminate upon the termination or expiration of the Underlying Agreement.

C. Effect of Termination.

(a) Termination of this Addendum will result in termination of the Underlying Agreement.

(b) Upon termination of this Addendum or the Underlying Agreement, JCAHO will return or destroy all PHI received from the surveyed organization or created or received by JCAHO on behalf of the Surveyed Organization that JCAHO still maintains and retain no copies of such PHI; provided that if such return or destruction is not feasible, JCAHO will extend the protections of this Addendum to the PHI and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

6. Amendment. JCAHO and the Surveyed Organization agree to take such action as is necessary to amend this Addendum from time to time as is necessary for the Surveyed Organization to comply with the requirements of the Privacy Rule.

7. Survival. The obligations of JCAHO under section 5.C. (b) of this Addendum shall survive any termination of this addendum.

8. No Third Party Beneficiaries. Nothing express or implied in this

Addendum is intended to confer, nor shall anything herein confer, upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

9. Effective Date. This Addendum shall be effective on _____

Surveyed Organization

JCAHO

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____